

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BARBARA SHAFFER,

Plaintiff,

v.

HON. ROBERT W. BREAKIRON, in
his Individual Capacity, and THE COURT
OF COMMON PLEAS OF FAYETTE
COUNTY,

Defendants.

2:05cv242

ORDER OF COURT

AND NOW, this 9th day of December, 2005, upon consideration of the MOTION TO QUASH SUBPOENA, with brief in support, filed by movant Pennsylvania Office of Attorney General (*Document Nos. 14 & 15*), and it appearing to the Court that the federal common law of privileges applies to federal question cases such as this one, *see Sarko v. Penn-Del Directory Co.*, 170 F.R.D. 127, 129 (E.D. Pa. 1997), that under Federal Rule of Evidence 501 privileges are “governed by the principles of the common law as they may be interpreted by the Courts of the United States in the light of reason and experience,” and that Plaintiff has failed to establish, and after researching the issue the Court is unable to independently conclude “in the light of reason and experience” that “evidence necessarily obtained by lawful wiretap” is privileged and protected from discovery by “principles of the common law.” *See, e.g., Montone v. Radio Shack, a Div. of Tandy Corp.*, 698 F. Supp. 92, 94-95 (E.D.Pa. 1988).

NOW THEREFORE, the Motion to Quash Subpoena is DENIED.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

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